

ORAL ARGUMENT NOT YET SCHEDULED

Case No. 23-5110

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

People for the Ethical Treatment of Animals,
Madeline Krasno, and Ryan Hartkopf,

Appellants,

v.

Lawrence A. Tabak, in his official capacity as Acting Director of the National
Institutes of Health, and Xavier Becerra, in his official capacity as Secretary of
the U.S. Department of Health and Human Services,

Appellees.

Appeal from the United States District Court for the District of Columbia,
No. 21-cv-02380-BAH
Hon. Beryl A. Howell

**NOTICE OF INTENT OF ELECTRONIC FRONTIER FOUNDATION
TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF APPELLANTS
AND REVERSAL**

Sophia Cope
David Greene
ELECTRONIC FRONTIER FOUNDATION
815 Eddy Street
San Francisco, CA 94109-7701
Tel: (415) 436-9333
Fax: (415) 436-9993
sophia@eff.org

September 8, 2023

*Attorneys for Amicus Curiae
Electronic Frontier Foundation*

CORPORATE DISCLOSURE STATEMENT

Pursuant to D.C. Circuit Rule 26.1 and Federal Rule of Appellate Procedure 26.1, *amicus* submits the following corporate disclosure statement: *Amicus* Electronic Frontier Foundation (“EFF”) is a donor-funded, nonprofit civil liberties organization. EFF has no parent corporation and does not issue stock.

September 8, 2023

/s/ Sophia Cope
Sophia Cope

Attorneys for Amicus Curiae
Electronic Frontier Foundation

NOTICE OF INTENT TO FILE *AMICUS* BRIEF

Pursuant to Federal Rule of Appellate Procedure 29(a) and D.C. Circuit Rule 29(b), the Electronic Frontier Foundation (“EFF”) represents that it intends to participate in this case as *amicus curiae*. Appellants and appellees have consented to the filing by EFF of an *amicus* brief.

EFF is a member-supported nonprofit organization devoted to protecting civil liberties in the digital age. EFF has worked for over 30 years on behalf of its more than 39,000 dues-paying members, recognizing the internet’s power as a tool of democratization, to protect the rights of users to transmit and receive information online. EFF has written extensively on the issues presented in this appeal¹ and has filed *amicus* briefs in similar cases, including in *Knight First Amendment Institute at Columbia University v. Trump*, 928 F.3d 226 (2d Cir. 2019), *Robinson v. Hunt County*, 921 F.3d 440 (5th Cir. 2019), and *Campbell v. Reisch*, 986 F.3d 822 (8th Cir. 2021).

¹ See, e.g., Camille Fischer, *Can the Government Block Me on Twitter?: 2018 Year in Review*, EFF Deeplinks (Dec. 22, 2018), <https://www.eff.org/deeplinks/2018/12/can-government-block-me-twitter-2018-year-review>; David Greene & Karen Gullo, *When Tweets Are Governmental Business, Officials Don’t Get to Pick and Choose Who Gets to Receive, Comment On, and Reply to Them. That Goes for the President, Too*, EFF Deeplinks (Nov. 30, 2017), <https://www.eff.org/deeplinks/2017/11/when-officials-tweet-about-government-business-they-dont-get-pick-and-choose-who>.

Accordingly, the proper resolution of this case is a matter of significant interest to EFF and its members. *Amicus* intends to file a brief of 6,500 words or fewer to address the importance of courts scrutinizing the implementation of “off-topic” rules that are used to justify a designation that a government-run social media account is a limited public forum, given the risk of viewpoint discrimination in violation of citizens’ First Amendment rights.

Amicus respectfully submits that this notice is timely filed under D.C. Circuit Rule 29(b). EFF intends to file its brief no later than September 15, 2023 in accordance with D.C. Circuit Rule 29(c).

In addition, pursuant to D.C. Circuit Rule 29(d), *amicus* has worked to eliminate or minimize any overlap with the issues addressed by other *amici*.

September 8, 2023

Respectfully submitted,

/s/ Sophia Cope

Sophia Cope

David Greene

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San Francisco, CA 94109-7701

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Fax: (415) 436-9993

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Attorneys for Amicus Curiae

Electronic Frontier Foundation

CERTIFICATE OF SERVICE

I hereby certify that on September 8, 2023 I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Sophia Cope
Sophia Cope